

### **STATUS OF THE CLAIMS**

Claims 1-23 were originally filed in this patent application. In the pending office action, the pending claims are subject to a restriction requirement. Claims 1-16 and 22-23 were orally elected by applicant's attorney, and have been examined by the examiner. Claims 1, 5, 6, 8, 9, 11-14 and 16 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,318,858 to Frick. Claims 2-4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Frick. Claims 7, 10 and 15 were objected to, but would be allowable if properly rewritten in independent form. In this amendment, claims 7, 10 and 17-21 have been cancelled, claims 1, 6, 9 and 22 have been amended, and new claims 24 and 25 have been added. Claims 1-6, 8, 9, 11-16, and 22-25 are currently pending.

## **REMARKS**

### **Election of Claims**

Applicant hereby confirms election without traverse of claims 1-16 and 22-23.  
Non-elected claims 17-21 have been cancelled herein.

### **Rejection of claims 1, 5, 6, 8, 9, 11-14 and 16 under 35 U.S.C. §102(b)**

The examiner rejected claims 1, 5, 6, 8, 9, 11-14 and 16 under 35 U.S.C. §102(b) as being anticipated by Frick. Each of these claims is addressed below.

#### **Claim 1**

Claim 1 is amended herein to recite that the shear member comprises an annular ring portion of the nose piece that is larger in diameter than the axial cylindrical hole. This is the subject matter in claim 7 that the examiner indicated was allowable. As a result, claim 1 as amended is allowable over Frick.

#### **Claims 5, 6 and 8**

Claims 5, 6 and 8 depend on claim 1, which is allowable for the reasons given above. As a result, claims 5, 6 and 8 are allowable as depending on an allowable independent claim.

#### **Claim 9**

Claim 9 has been amended herein to incorporate the limitations from claim 10, which contained allowable subject matter. As a result, claim 9 is allowable over Frick.

### Claims 11-13

Claims 11-13 depend on claim 9, which is allowable for the reasons given above. As a result, claims 11-13 are allowable as depending on an allowable independent claim.

### Claim 14

Claim 14 recites several features that are not taught or suggested in Frick. In claim 14, the nose piece is friction-fit into the axial cylindrical hole. Nowhere does Frick teach or suggest a friction fit. In fact, the configuration of Frick teaches away from a friction fit, because a friction fit would cause the impact member 17 to get stuck within the aperture 7 and not deploy. The blades 9 are held in a retracted position by the shell 2. When the projectile is fired from the shell, the spring 19 moves the impact member 19 to the position shown in FIG. 5 so the blades 9 are deployed in flight. A friction fit in Frick would defeat the deployment of blades 9 by spring 19. As a result, Frick teaches away from a friction fit as taught in claim 14.

Claim 14 also recites that the first and second deployable knife members each comprise first and second raised members with specific limitations. While the examiner's rejection addressed one raised member, the rejection did not address first and second raised members. Because the examiner's rejection did not address first and second raised members, the examiner has failed to establish a prima facie case of anticipation for claim 14 under 35 U.S.C. §102(b). Frick does not teach or suggest first and second deployable knife members that each have first and second raised members with the limitations expressly recited in claim 14. For this reason, claim 14 is allowable over Frick.

Claim 14 also recites a cylindrical groove near the bottom of the axial cylindrical hole. The examiner has not addressed this limitation in claim 14, and has therefore failed

to establish a prima facie case of anticipation for claim 14 under 35 U.S.C. §102(b). Frick has no cylindrical groove as recited in claim 14, into which the first and second deployable knife members extend when the knife members are in the deployed position, as expressly recited in claim 14. For this reason, claim 14 is allowable over Frick.

Claim 14 also recites a first tab portion of the first deployable knife member that extends into the cylindrical groove when the first deployable knife member is in a deployed position, and a second tab portion of the second deployable knife member that extends into the cylindrical groove when the second deployable knife member is in a deployed position. The examiner's rejection did not address the first and second tab portions. As a result, the examiner has failed to establish a prima facie case of anticipation for claim 14 under 35 U.S.C. §102(b). Because Frick does not teach tab portions on the blades that extend into a cylindrical groove when the blades are deployed, claim 14 is allowable over Frick.

The examiner essentially admits that the cylindrical groove and first and second tab portions of the first and second knife members, respectively, constitute allowable subject matter by the indication of allowable subject matter in claim 10, which recites these limitations. Applicant respectfully submits that claim 14 is allowable for the same reasons that claim 10 contains allowable subject matter.

For the many reasons given above, claim 14 is allowable over Frick, and applicant respectfully requests reconsideration of the examiner's rejection of claim 14 under 35 U.S.C. §102(b).

#### Claim 16

Claim 16 depends on claim 14, which is allowable for the reasons given above. As a result, claim 16 is allowable as depending on an allowable independent claim.

#### Rejection of claims 2-4 under 35 U.S.C. §103(a)

Claims 2-4 were rejected under 35 U.S.C. §103(a) as being obvious in view of Frick. Claims 2-4 depend on claim 1, which is allowable for the reasons given above. As a result, claims 2-4 are allowable as depending on an allowable independent claim.

#### Claims 7, 10 and 15

The allowable subject matter in claim 7 was added to claim 1, and claim 7 has been cancelled. As a result, claim 1 is allowable. The allowable subject matter in claim 10 was added to claim 9, and claim 10 has been cancelled. As a result, claim 9 is allowable. Claim 15 depends on claim 14, which is allowable for the reasons given above. As a result, claim 15 is allowable as depending on an allowable independent claim.

#### Claims 22-23

While claims 22-23 were in the set of elected claims, the examiner did not address these claims in the rejection. As a result, the examiner has failed to establish a prima facie case of anticipation under 35 U.S.C. §102(b) or a prima facie case of obviousness under 35 U.S.C. §103(a). Claim 22 has been amended herein to recite the nose piece includes an annular ring portion that is larger in diameter than the axial cylindrical hole, similar to claim 7 which the examiner stated contained allowable subject matter. As a result, claim 22 is allowable. Claim 23 depends on claim 22, and is therefore allowable as depending on an allowable independent claim.

### New Claims 24 and 25

Claim 24 was added to more specifically recite the annular ring for the at least one shear member in claim 14. Claim 25 was added to more specifically claim a configuration for the projectile that is not anticipated or obvious in light of the known art. Applicant respectfully submits that claims 24 and 25 are allowable over Frick.

### Conclusion

In summary, Frick does not teach, support, or suggest the unique combination of features in applicant's claims presently on file. Therefore, applicant respectfully asserts that all of applicant's claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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